

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

IN RE:	§	Chapter 11
	§	
HUMBLE SURGICAL HOSPITAL, LLC, ET AL.,	§	Case No. 17-31078-H2-11 (Jointly Administered Under Case No. 17-31078-H2-11)
Debtors.	§	
AETNA LIFE INSURANCE COMPANY, ON BEHALF OF ROBERT E. OGLE, AS TRUSTEE FOR THE DEBTORS HUMBLE SURGICAL HOSPITAL, ET AL.,	§	
v.	§	Adversary No. 17-03233 (Administered Under Case No. 12-1206)
IFEOLUMIPO O. SOFOLA, ET AL.	§	

Motion for Substitute Service of Process

Plaintiff Aetna Life Insurance Company, on Behalf of Robert E. Ogle, as Chapter 11 Trustee for the Debtors (“Trustee”), moves for an order on substitute service of process on Defendants Abdel Fustok (a former owner in Humble) and Omar Fustok, each of whom have evaded ordinary means of service.

1. The Trustee has diligently pursued efforts to serve twenty-one doctors and their affiliated entities for which summons was issued. ECF Nos. 78-101. Despite numerous good faith attempts, the Trustee’s efforts have been unsuccessful for two doctors: Abdel Fustok and Omar Fustok.

Abdel Fustok

2. Hunton hired Easy Serve, LLC, a private process service company, which attempted to serve Abdel Fustok without success on eight separate occasions by personal delivery and one occasion by certified mail. *See Exhibit A.*

3. Attached as Exhibit A-1 is the declaration of Jayme Chacon reflecting four attempts to serve Abdel Fustok personally at 4126 Southwest Freeway, Suite 1120, Houston, Texas 77027. The address is listed with the Texas Medical Board as Abdel Fustok's current primary practice address. *See Exhibit A-2.* The service declaration states facts indicating that the address is Abdel Fustok's usual place of business. *See Exhibit A-1.*

4. Attached as Exhibit A-3 is the declaration of Jayme Chacon reflecting four separate attempts to serve Abdel Fustok personally at 6 Farnham Park Dr., Houston, Texas 77024. The address is listed with the Harris County Appraisal District as Abdel Fustok's residence. *See Exhibit A-4.* The service declaration also states facts indicating that the address is Abdel Fustok's residence. *See Exhibit A-3.*

5. Attached as Exhibit A is the affidavit of Brian C. Pidcock, counsel of record for the Trustee, stating that Easy Serve was also engaged to attempt service on Abdel Fustok by certified mail at 4126 Southwest Freeway, Suite 1120, Houston, Texas 77027 and 6 Farnham Park Dr., Houston, Texas 77024, but that no greed cards have been returned as of this filing. *See Exhibit A at ¶ 5.*

Omar Fustok

6. Easy Serve also attempted to serve Omar Fustok without success on four separate occasions by personal delivery and one occasion by certified mail. *See Exhibit A.*

7. Attached as Exhibit A-5 is the declaration of Jayme Chacon reflecting four attempts to serve Omar Fustok at 6 Farnham Park Dr., Houston, Texas 77024. The service declarations state facts indicating that the address is Omar Fustok's residence. *See id.; see also Exhibit A-3.*

8. Attached as Exhibit A is the affidavit of Brian C. Pidcock, counsel of record for Trustee, stating that Easy Serve was also engaged to attempt service on Omar Fustok by certified mail at 6 Farnham Park Dr., Houston, Texas 77024, but that no greed cards have been returned as of this filing.

Substitute Service

9. Each of the described attempts at service have been unsuccessful. The Court is authorized to order substituted service in any manner that will be reasonably effective in giving the Defendants notice of the lawsuit. *See FED. R. CIV. P. 4; TEX. R. CIV. P. 106(b).* The Trustee requests substituted service as follows:

- Leaving the summons and complaint with any person employed at Abdel Fustok's primary practice address: 4126 Southwest Freeway, Suite 1120, Houston, Texas 77027;
- Affixing the summons and complaint to the door of Abdel Fustok and Omar Fustok's current residence: 6 Farnham Park Dr., Houston, Texas 77024;

- Mailing the summons and complaint by regular and certified mail to Abdel Fustok's primary practice address: 4126 Southwest Freeway, Suite 1120, Houston, Texas 77027; and
- Mailing the summons and complaint by regular and certified mail to Abdel Fustok and Omar Fustok's current residence: 6 Farnham Park Dr., Houston, Texas 77024.

10. The described methods of substitute service will be reasonably effective in giving Abdel Fustok and Omar Fustok notice of this suit because the specified locations are Abdel Fustok's primary place of work and residence as well as Omar Fustok's residence.

Based on the forgoing, the Trustee respectfully requests that the Court enter an order authorizing the Trustee to effectuate substitute service in the manner listed, and for such further relief as it deems appropriate.

Respectfully submitted,

By: /s/ John B. Shely**

John B. Shely

State Bar No. 18215300

Federal ID No. 7544

HUNTON ANDREWS KURTH LLP

600 Travis Street, Suite 4200

Houston, Texas 77002

Telephone: (713) 220-4105

Fax: (713) 220-4285

johnshely@huntonAK.com

OF COUNSEL:

HUNTON ANDREWS KURTH LLP

and

Timothy A. ("Tad") Davidson II

State Bar No. 24012503

Federal ID No. 24220

taddavidson@huntonAK.com

Brian C. Pidcock

State Bar No. 24074895

Federal ID No. 1654553

brianpidcock@huntonAK.com

Kelsey Hope

State Bar No. 24092538

Federal ID No. 2639626

kelseyhope@huntonAK.com

600 Travis Street, Suite 4200

Houston, Texas 77002

Telephone: (713) 220-4200

Fax: (713) 220-4285

ATTORNEY IN CHARGE FOR
AETNA LIFE INSURANCE
COMPANY IN THE NAME OF
ROBERT E. OGLE AS TRUSTEE TO
THE DEBTORS

**Case No. 12-1206, Dkt#405 (Order
on Derivative Standing)

CERTIFICATE OF SERVICE

On May 16, 2018, a true and correct copy of the foregoing instrument was served on all parties in accordance with the Federal Rules of Civil Procedure.

s/ John B. Shely

John B. Shely